

COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
1111 E. BROAD STREET, 6th Floor
P. O. BOX 1199
RICHMOND, VIRGINIA 23218-1199

TRADING PARTNER AGREEMENT

1. DATE March 1, 2006
2. COMMODITY NAME Carpet
3. AGREEMENT NUMBER 3601000-60
4. AGREEMENT PERIOD March 1, 2006 through December 31, 2006
5. SUPERSEDES 3601000-50
6. AUTHORIZED USERS State Agencies and Public Bodies
7. INSTRUCTIONS Page 2
Note: Section III, paragraph H. If your procurement meets or exceeds the single quote threshold...
8. TERMS & CONDITIONS Attachments 1 & 2
9. TRADING PARTNERS LISTED BY LOCALITY See Contract Data File*
10. CARPET MILLS LISTED BY TRADING PARTNER See Contract Data File*
11. CARPETS AND BUDGET PRICING LISTED BY MILL See Contract Data File*
12. MILL AND PARTNER'S ADDRESS BOOK See Contract Data File*

*(The agreement data is available in the online Carpet Management System)

13. FOR FURTHER INFORMATION CONTACT: Chris A. Nichols, VCO, CPPB
Phone: (804) 786-3849
Fax: (804) 786-0223
Chris.Nichols@dgs.virginia.gov
14. ADDITIONAL COPIES OF THIS AGREEMENT AND ANY ASSOCIATED AGREEMENT CHANGES MAY BE VIEWED AND PRINTED AT THE DPS WEBSITE: www.eva.virginia.gov (contracts)
15. Notice to State Agencies and other Authorized Users: This is the result of agreements between the Commonwealth, Carpet manufacturers and their associated Authorized Dealers. This is an OPTIONAL USE AGREEMENT for the purchase of carpet, carpet installation and associated services. Users may use the budget pricing for estimating purposes (only) and the enclosed terms and conditions for carpet acquisition. Read and follow INSTRUCTIONS on page 2.
Note: If this agreement is used by public bodies, orders shall be placed through eVA.
16. **Note:** This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

Chris A. Nichols, CPPB, VCO

INSTRUCTIONS

SCOPE OF AGREEMENT: To establish terms and conditions under which multiple dealers (Trading Partners) and manufacturers (Strategic Partners) will sell carpet to the authorized users of this agreement.

- I.** The Trading Partner Agreement. This agreement details the Terms and Conditions under which the dealers will sell carpet to you. (Attachment 1)
- II.** The Strategic Partner Agreement is an agreement between DPS and the manufacturers. This agreement consists of a listing of the carpets made by them that the Trading Partner will sell and a budget installed price for each carpet. The budget(ing) installed price is simply an estimate by the manufacturer of what you should expect to pay per square yard to have a particular carpet installed. This price does not include other costs such as floor repair, cove base, etc. This price is to help you sort out what carpets fall within your budget. (Attachment 2)
- III.** Instructions for using this agreement. (This agreement consists of two files: 3601000-60 and Agreement Data)
 - A. All carpet will be bought on an individual job basis, "spot purchase".
 - B. You are authorized to use any procurement method allowed by regulation/law.
 - C. Check to see what dealers sell in your city/county. (See Agreement Data file)
 - D. Check to see what mills they represent. (See Agreement Data file)
 - E. Check the Strategic Partners to see what carpet choices you have. (See Agreement Data file)
 - F. Select carpets, which fall within your budget and then compare them for suitability.
 - G. Prepare your solicitation and cite both agreements. Your award should be based on a lump sum for the entire job. Additional Special Terms and Conditions unique to each job may be included such as bid bond, performance bond or special delivery instructions.
 - H. If your procurement meets or exceeds the single quote threshold, you are required to solicit the proper number of partners as prescribed by regulation. In the event that you do not have enough partners listed for your city/county to satisfy this requirement, you may solicit other partners not listed for your area.

Note: The agreement data is available in the online Carpet Management System

- IV.** **Orders.** Unless otherwise instructed by the Division of Purchases and Supply, all departments, institutions and agencies of the Commonwealth of Virginia
 - A. Purchase orders will be submitted to the Contractor via the Commonwealth of Virginia's electronic procurement system, also known as eVA. The orders will be governed by this agreement and the terms and conditions contained in the separate agreement for participation in eVA executed by the contractor. If this agreement is authorized for use by localities, Virginia cities, counties, town and political subdivisions, then these entities must place their orders through eVA.
 - C. If this agreement is authorized for use by localities, Virginia cities, counties, towns and political subdivisions may use their own form to order items listed in this agreement.
 - D. The applicable agreement number must be shown on each purchase order and copy, each facsimile transmission or given verbally when telephonic orders are placed.
 - E. Inspection on delivery and approval of vendor's invoice is the responsibility of receiving state agency, Virginia city, county, town or political subdivision.
 - F. Any complaint as to quality, faulty or delinquent delivery, or violation of agreement provisions by contractor shall be reported to the Division of Purchases and Supply for handling with the contractor. Complaint forms (DGS-41-024), by which to facilitate the notification of the contractor and this office of complaints, are available at <http://www.dgs.virginia.gov>.
 - G. Contractor is required to provide a carpet installation certificate as depicted on page 17. (Attachment 2)

ATTACHMENT 1
TRADING PARTNER AGREEMENT COMMERCIAL CARPET

The Commonwealth of Virginia (COVA) is compiling a listing of qualified carpet dealers with whom we will establish this Trading Partner Agreement to sell/furnish and install carpeting for State Agencies and Public Bodies. These Partners will form a network of carpet dealers throughout the COVA. Authorized users of this agreement will issue solicitations specific to individual projects. Prospective partners are cautioned that any resulting agreement will require that the partner respond to solicitation issued whenever and wherever placed by those authorized users having requirements for those items identified by the partner in the areas the partner has chosen to service. These solicitations may contain additional requirements such as but not limited to Bid Bonds and Performance Bonds. Authorized users will only solicit those Partners who hold a contractor's license appropriate for the project. The authorized users may use any procurement method allowed by law and/or regulation.

Commodity:	Carpet, nylon tufted, Commercial/Business	Date:	Dec 31, 2005
Contract ID #:	3601000-60		
NIGP Commodity Code:	36010		
UNSPSC Code:	30161609		
Authorized Users:	Virginia State Agencies and Public Bodies	Delivery points: Various sites throughout the Commonwealth of Virginia	
Contract Period: ~ 1 - Year – Award through December 31, 2006			
Contract Officer:	Chris A. Nichols	Phone:	(804) 786-3849
		Email:	Chris.Nichols@dgs.virginia.gov

IMPORTANT: See IFB Pages 7 and 8 (eVA Business-to-Government Web Site)

In compliance with this agreement for bid and to all the conditions imposed therein, the undersigned offers and agrees to furnish the goods/services. I certify that I am authorized to sign this bid.

Company Name & Address

Date _____

By _____

Signature in ink

Name _____

(Please Print)

Title _____

FEIN or SS Number _____

Telephone Number _____

Prompt Payment Discount ____% ____Days

FAX # _____

Dun and Bradstreet No. (D-U-N-S®): _____

Email _____

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PROSPECTIVE BIDDERS ARE CAUTIONED THAT ANY RESULTING CONTRACT AWARDED WILL REQUIRE THAT THE CONTRACTOR RESPOND TO PURCHASE ORDERS ISSUED WHENEVER AND WHEREVER PLACED BY THOSE AUTHORIZED USERS HAVING REQUIREMENTS FOR THESE COMMODITIES. ALL ITEMS SHALL BE F.O.B. DELIVERED TO ANY SUCH POINT WITHIN THE COMMONWEALTH OF VIRGINIA.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 11-35.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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AGREEMENT TERMS AND CONDITIONS

A. DEFINITIONS:

As used in this agreement the following definitions apply:

Contractor(s) shall mean any firm which has been awarded a contract pursuant to this agreement.

Bid/Offer shall mean a response to a solicitation issued pursuant to this agreement.

Bidder(s)/Offeror(s) shall mean any firm that submits a response to a solicitation issued pursuant to this agreement.

Trading Partner shall mean any firm that has duly executed this agreement with the COVA.

B. APPLICANT QUALIFICATIONS: Submissions will be accepted only from responsible commercial carpet dealers. A commercial dealer is a dealer that installs carpet in public buildings and business including college dormitories. The Commonwealth will use the following qualifications as part of its determination of applicant responsibility:

1. Applicant shall be an authorized dealer for the products of the manufacturer listed in paragraph G of this agreement.
2. Applicant shall be a licensed contractor in the specialty CIC Commercial Improvements, home improvements or other carpet installation venue.
3. Applicant shall be insured as outlined in paragraph F.

C. F.O.B POINT: All items delivered pursuant to this agreement shall be F.O.B. destination.

D. TRADING PARTNER CONTRACTOR REGISTRATION: If a contract for construction, removal, repair, or improvement of a building or other real property is for seventy thousand dollars (\$70,000) or more, or if the total value of all such contracts undertaken by Bidder within any twelve month period is five hundred thousand dollars (\$500,000) or more, the Bidder is required under Title 54.1, Code of Virginia (1950), as amended, to be licensed by the State Board of Contractors as a "Class A Contractor". If such a contract is for seventy-five hundred dollars (\$7,500) or more, but less than seventy thousand dollars (\$70,000), the Bidder is required to be licensed as a "Class B Contractor". If such a contract is for one thousand dollars (\$1,000) or more, but less than fifteen thousand dollars (\$15,000), the Bidder is required to be licensed as a "Class C Contractor". The Bidder shall place on the outside of the envelope containing the bid and shall place in the bid over his signature whichever of the following notations is appropriate, inserting his contractor license number

Licensed Class A Virginia Contractor No. _____ Specialty _____

Licensed Class B Virginia Contractor No. _____ Specialty _____

Licensed Class C Virginia Contractor No. _____ Specialty _____

If the Bidder shall fail to provide this information on his/her bid or on the envelope containing the bid and shall fail to promptly provide said contractor license number to the Commonwealth in writing when requested to do so before or after the opening of bids, he/she shall be deemed to be in violation of Section 54.1-1115 of the Code of Virginia (1950), as amended, and his/her bid will not be considered.

If a Prospective Bidder does not have the required license prior to submission of bid, the bid shall not be considered. The Bidder shall have the appropriate specialty classification that is predominant for the respective work.

Should you have a change in the type of Contractors License which you hold (A, B, or C) you will need to notify this office. The type of license required will be dictated by the estimated cost for each individual project.

- E. SITE VISIT:** Agencies and Political Subdivision may require mandatory site visits prior to submitting bids/offers. In the event that insufficient firms attend the mandatory site visit to insure adequate competition, the agency/political subdivision may invite additional firms to a site visit at a later date. The determination as to whether or not sufficient firms attended the mandatory site visit shall be at the sole discretion of the agency/political subdivision. In no event shall a firm which was specifically notified of the first mandatory site visit and did not attend the site visit be invited to any later site visits which are arranged solely for the purpose of insuring adequate competition.
- F. APPLICANT SHALL BE INSURABLE AS FOLLOWS:** Refer to the included General Terms and conditions.

G. MANUFACTURERS: Applicants shall provide a list of all of the carpet manufacturers for whom they are authorized dealers. By signing this agreement, I hereby certify that my firm is an authorized dealer for the manufacturers listed below. Complete the listing in the following table: Attach additional pages, if necessary.

[illegible]

H. GEOGRAPHICAL WORK AREA(S):

Partner applicants shall provide a list of all geographic areas they desire to service. Placing an X by a County or City below will indicate that you can sell carpet from each of the manufacturers listed in Paragraph F. If you cannot sell carpet from each of the manufacturers listed in paragraph F above in each of the counties/cities you have checked below, please identify on a separate sheet of paper which carpets can be sold in what county/city.

County/City	Mark X If You Can Service The City/ County Below
Accomack County	
Albemarle County	
Alleghany County	
Amelia County	
Amherst County	
Appomattox County	
Arlington County	
Augusta County	
Bath County	
Bedford County	
Bland County	
Botetourt County	
Brunswick County	
Buchanan County	
Buckingham County	
Campbell County	
Caroline County	
Carroll County	
Charles City County	
Charlotte County	
Chesterfield County	
Clarke County	
Craig County	
Culpeper County	
Cumberland County	
Dickenson County	
Dinwiddie County	
Essex County	
Fairfax County	
Fauquier County	
Floyd County	
Fluvanna County	
Franklin County	
Frederick County	
Giles County	

Gloucester County	
Goochland County	
Grayson County	
Greene County	
Greensville County	
Halifax County	
Hanover County	
Henrico County	
Henry County	
Highland County	
Isle of Wight County	
James City County	
King & Queen County	
King George County	
King William County	
Lancaster County	
Lee County	
Loudon County	
Louisa County	
Lunenburg County	
Madison County	
Mathews County	
Mecklenburg County	
Middlesex County	
Montgomery County	
Nelson County	
New Kent County	
Northhampton County	
Northumberland County	
Nottoway County	
Orange County	
Page County	
Patrick County	
Pittsylvania County	
Powhatan County	
Prince Edward County	
Prince George County	
Prince William County	
Pulaski County	
Rappahannock County	
Richmond County	
Roanoke County	
Rockbridge County	

Rockingham County	
Russell County	
Scott County	
Shenandoah County	
Smyth County	
Southampton County	
Spotsylvania County	
Stafford County	
Surry County	
Sussex County	
Tazewell County	
Warren County	
Washington County	
Westmoreland County	
Wise County	
Wythe County	
York County	
City of Alexandria	
City of Bedford	
City of Bristol	
City of Beuna Vista	
City of Charlottesville	
City of Chesapeake	
City of Clifton Forge	
City of Colonial Heights	
City of Covington	
City of Danville	
City of Emporia	
City of Fairfax	
City of Falls Church	
City of Franklin	
City of Fredericksburg	
City of Galax	
City of Hampton	
City of Harrisonburg	
City of Hopewell	
City of Lexington	
City of Lynchburg	
City of Manassas	
City of Manassas Park	
City of Martinsville	
City of Newport News	
City of Norfolk	

City of Norton	
City of Petersburg	
City of Poquoson	
City of Portsmouth	
City of Radford	
City of Richmond	
City of Roanoke	
City of Salem	
City of South Boston	
City of Staunton	
City of Suffolk	
City of Virginia Beach	
City of Waynesboro	
City of Williamsburg	
City of Winchester	

GENERAL TERMS AND CONDITIONS

- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dps.virginia.gov under "Manuals."
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offers) certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** By submitting their (bids/proposals), (bidders/offerors) certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs**

(Insert wording below appropriate to the solicitation type as indicated):

1. **(For Invitation For Bids):** Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.

2. (For Request For Proposals): Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. **CLARIFICATION OF TERMS**: If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. **PAYMENT**:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or

(2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.

b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

K. **PRECEDENCE OF TERMS:** Paragraphs A-J of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. **QUALIFICATIONS OF (BIDDERS/OFFERORS):** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The Commonwealth further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the Commonwealth that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or

- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.
- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.
- Q. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- R. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offerors) to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The (bidder/offeror) is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the (bidder/offeror) clearly indicates in its (bid/proposal) that the product offered is an equal product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.
- S. **TRANSPORTATION AND PACKAGING:** By submitting their (bids/proposals), all (bidders/offerors) certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

- T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverages at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

1. Workers' Compensation - Statutory requirements and benefits.
 2. Employer's Liability - \$100,000.
 3. Commercial General Liability - \$500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.
- U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$30,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site (www.eva.virginia.gov) for a minimum of 10 days.
- V. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, or disability, or against faith-based organizations. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, web site portal www.eva.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service, and complete the Ariba Commerce Services Network registration.

Vendors are strongly encouraged to register prior to submitting a bid or offer. Failure to register will result in the bid being found non-responsive and rejected. All vendors must register in both the eVA and the Ariba Commerce Services Network Vendor Registration Systems.

- a. eVA Basic Vendor Registration Service: \$25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding, as they become available.
- b. eVA Premium Vendor Registration Service: \$200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.

Effective until July 1, 2003, the Commonwealth will direct AMS not to invoice for the 1% transaction fee for orders issued during the period July 1, 2002, through June 30, 2003, to allow additional time for vendors to become electronically enabled. AMS will continue to invoice for transaction fees accrued prior to July 1, 2002. To enable vendors to analyze the future impact of transaction fees, AMS will issue "no pay" invoices for transaction fees that would normally accrue during the period of July 1, 2002, through June 30, 2003. For contracts that extend beyond June 30, 2003, contractors may request price adjustments to incorporate the eVA transaction fee, as provided in the Price Escalation/De-escalation clause in the Special Terms and Conditions of the contract.

- c. Ariba Commerce Services Network Registration. The Ariba Commerce Services Network (ACSN) registration is required and provides the tool used to transmit information electronically between state agencies and vendors. There is no additional fee for this service.

SPECIAL CONDITIONS

- A. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS:** The eVA Internet electronic procurement solution, web site portal www.eva.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Failure to comply with the requirements in a. and b. below will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

- a. Submit a fully executed American Management Systems, Inc., (AMS) Trading Partner Agreement, a copy of which can be accessed and downloaded from www.eva.virginia.gov. AMS is the Commonwealth's service provider to implement and host the eVA e-procurement solution.

- b. Provide an electronic catalog (price list) for items awarded under a term contract. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eva.virginia.gov.

- AA. TRANSPORTATION AND PACKAGING:** By submitting their bids, all Partners certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- AB. Renewal of Agreement:** The agreement is renewable for three (3) one-year periods. One one-year renewals remain. The decision to exercise a renewal option will be made by the Agreement Officer approximately Three to six months in advance of the expiration date of the current term
- AC. AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.'
- AD. WITHDRAWAL OF BID DUE TO ERROR:** Bid withdrawal shall be in accordance with Section 5-13 of the Vendors Manual, December 1998.
- AE. DELIVERY:** After receipt of order, unless a longer delivery period is specified on purchase order, delivery and installation shall be affected within a reasonably prompt time frame but in no event will the time frame be longer than the delivery period specified on price sheet for the product ordered.
- AF. DELIVERY AND STORAGE:** It shall be the responsibility of the Contractor to make all arrangements for delivery, unloading, receiving and storing materials in the building during installation. The Owner will not assume any responsibility for receiving these shipments. Contractor shall check with the Owner and make necessary arrangements for security and storage space in the building during installation.
- AG. CONTRACTOR'S TITLE TO MATERIALS:** No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales or other agreement by which an interest is retained by the seller. The Contractor warrants that he has clear title to all materials and supplies for which he invoices for payment.
- AH. ASBESTOS:** Whenever and wherever during the course of performing any work under this contract, if the Contractor discovers the presence of asbestos or suspects that asbestos is present, the contractor shall stop the work immediately, secure the area, notify the Building Owner and await positive identification of the suspect material. During the downtime in such a case, the Contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. In the event the Contractor is delayed due to the discovery of asbestos or suspected asbestos, then a mutually agreed extension of time to perform the work shall be allowed. Contractor shall not use any asbestos containing materials in the performance of this contract.
- AI. AUDIT:** The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.

- AJ. FINANCIAL STATEMENT:** The ordering entity reserves the right to require the successful Bidder to supply the latest independently audited financial statement to DGS/DPS before any award is made.
- AK. STATE USE TAX:** The Department of Taxation has determined that permanently glued down carpet is subject to State use tax.
- AL. SAMPLES FOR DISTRIBUTION TO AGENCIES:** Upon request, the Contractor or manufacturer shall furnish sample book of items awarded directly to the using agency or public body
- AM. INSTALLATION:** Contractor shall be responsible for installation of carpet in accordance with the Virginia Uniform Statewide Building Code, the manufacturer's instructions and these specifications.
1. The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that may be utilized, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor shall be fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees. The contractor while on the job site, shall have at least one employee whom is certified by the carpet manufacturer of the delivered carpet as qualified to install the specified carpet.
 2. Any damage to existing fixtures, utilities or finished surfaces resulting from the performance of this contract shall be repaired to the Owner's satisfaction at the Contractor's sole expense.
 3. A minimum of twenty-four (24) hour advanced notice shall be given to agency representative to allow for preparation of the work site and/or removal and relocation of furniture by agency personnel. If adequate notice is not given, contractor shall be responsible for any incurred expenses due to furniture movement.
 4. Carpet ordered for direct glue down shall be installed using manufacturer's recommended adhesive, trowel size and application rate. Seam sealer shall be used on all seams and butt joints and applied as per the manufacturer's recommendations.
 5. Carpet ordered for installation over padding shall be installed using proper pad adhesive and pad tape. Carpet shall be seamed using manufacturer's recommended seaming tape and all lengths over 12 feet shall be power stretched. All lengths over 30 feet shall be stretched by a senior power stretcher.
 6. Carpet ordered for double stick installations shall be installed using the carpet and pad manufacturer's recommended adhesives, trowel size and application rate. Seam sealer shall be used on all seams and butt joints and applied as per the manufacturer's recommendation.
 7. Carpet shall be laid according to recommendations of manufacturer. Carpet shall be laid flat, level without humps or ripples. Joints shall be subtle and imperceptible. All seams shall be trimmed in a neat and workmanlike manner.
 8. Finish strips of metal and metal/vinyl shall be a standard commercial quality and shall be installed with both edges tight against door frame. Edge of carpet and finish strips shall be located underneath the door when closed. Finish strips shall be installed where carpet abuts hard surface flooring.
 9. Carpet shall be securely attached to the floor in compliance with Americans with Disabilities Act.
 10. Installed carpet shall be free of spots, dirt or soil, tears and frayed or pulled tufts.

11. Carpet shall be thoroughly vacuumed immediately after installation.
 12. All debris shall be removed from the premises unless the ordering agency authorizes otherwise.
 13. Contractor shall remove doors when necessary but will not be responsible for cutoff or reinstallation of the doors.
 14. Punch list items and or corrections to installations shall be responded to within 10 days of notification and failure to do so may be cause to terminate the contract for default. Agencies may not withhold the total invoice amount awaiting repairs to be completed. The amount to be withheld will not exceed 5% of the invoiced amount for the areas awaiting repairs.
 15. For capital outlay installations, when required by the agency, the contractor may be required to work with the general contractor and or architect.
 16. Any installation is subject to verification by State inspector or independent agent engaged to represent the State for actual yardage required by institution involved. Any installation consuming more than 3% over the number of square yards within a given area shall be supported by seaming diagram showing waste and submitted to the agency prior to invoicing. Center of door dimensions will be considered.
 17. The carpet installer shall complete a Carpet Installation Certification (see Attachment A) as denoted herein upon satisfactory completion of each carpet installation. A copy of the certification shall be submitted with each Invoice with a copy to the Division of Purchases and Supply.
 18. Upon completion of an installation job, a manufacturer's maintenance manual and/or cleaning instructions shall be supplied to the owner without cost to the ordering Agency. Dealers and manufacturers may be required to conduct training sessions for agency personnel on the care and cleaning of their carpet.
 19. At the conclusion of the work, the Contractor shall demonstrate to the authorized owners representative that the work is fully operational and in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the Contractor at the Contractor's sole expense prior to final acceptance of the work.
 20. Installation Warranty: Each installation shall be warranted by the installing Trading Partner for a minimum of five years after the date of acceptance. The installation shall warranty against defective materials, workmanship and performance. The Trading Partner hereby agrees to furnish, without cost to the COVA, all labor, materials and transportation both ways for replacement of all materials which are found to be defective or labor to affect the adjustment/repair of the carpeting during the warranty period. Warranty repairs shall be completed within five to ten days after notification.
- AN. CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate this contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

ATTACHMENT 2

COMMONWEALTH OF VIRGINIA
CARPET INSTALLATION CERTIFICATE

AGENCY, DEPARTMENT OR POLITICAL SUBDIVISION	
LOCATION OF INSTALLATION (City/County)	
DATE OF INSTALLATION	
NAME OF CARPET AND PATTERN	
CARPET MANUFACTURER	
TYPE OF BACKING	
AGENCY ORDER NO.	
CARPET SQUARE YARDAGE INSTALLED	
TRADING PARTNER	
NAME OF INSTALLER	

I, THE UNDERSIGNED DO HEREBY CERTIFY THAT THE ABOVE LISTED DATA IS COMPLETE AND FACTUAL TO THE BEST OF MY KNOWLEDGE.FURTHERMORE, I HEREBY CERTIFY THAT THE ABOVE DESCRIBED CARPET INSTALLATION WAS INSTALLED BY COMPETENT WORKERS UNDER MY DIRECT SUPERVISION AND THAT SAID INSTALLATION HAS BEEN INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S PRINTED INSTRUCTIONS WHICH FULLY COMPLIES WITH THE REQUIREMENTS OF THE TRADING PARTNER AGREEMENT.

DATE: _____

SIGNATURE: _____

TITLE: _____

DISTRIBUTION OF COPIES:

ORIGINAL - CONTRACT MANAGER (Carpet) DIV. OF PURCHASES AND SUPPLY 805 EAST BROAD STREET RICHMOND, VA 23219	or	CONTRACT MANAGER (Carpet) DIV. OF PURCHASES AND SUPPLY PO BOX 1199 RICHMOND, VA 23218-1199
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